

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

**THE PUBLIC INTEREST LEGAL
FOUNDATION,**

Plaintiff,

V.

KATHY BOOCKVAR, in her official capacity as Acting Secretary of the Commonwealth of Pennsylvania, JONATHAN M. MARKS, in his official capacity as Deputy Secretary for Elections and Commissions, and the BUREAU OF COMMISSIONS, ELECTIONS AND LEGISLATION,

Defendants.

[illegible]

NO. 1:19-CV-622

JUDGE CONNER

ELECTRONICALLY FILED

**DEFENDANTS' MOTION TO DISMISS
PURSUANT TO FED. R. CIV. P. 12(b)**

Defendants Kathy Boockvar, Acting Secretary of the Commonwealth of Pennsylvania, Jonathan M. Marks, Deputy Secretary for Elections and Commissions, and the Bureau of Commissions, Elections and Legislation, by and through their undersigned counsel, hereby move to dismiss Plaintiff's Complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. In support of

this Motion, Defendants rely on their supporting memorandum of law which will be filed within 14 days pursuant to Rule 7.5 of the Local Rules of Court.

Respectfully submitted,

/s/ Daniel T. Brier

Daniel T. Brier

Donna A. Walsh

Counsel for Defendants,
Kathy Boockvar, Jonathan M. Marks
and the Bureau of Commissions,
Elections and Legislation

Myers, Brier & Kelly, LLP
425 Spruce Street, Suite 200
Scranton, PA 18503
(570) 342-6100

Dated: May 8, 2019

CERTIFICATE OF NON-CONCURRENCE

I, Daniel T. Brier, hereby certify that I sought the concurrence of counsel for Plaintiff, Linda A. Kerns, Esquire, in this Motion. Ms. Kerns does not concur.

/s/ Daniel T. Brier

Date: May 8, 2019

CERTIFICATE OF SERVICE

I, Daniel T. Brier, hereby certify that a true and correct copy of the foregoing Motion To Dismiss was served upon the following counsel of record via the Court's ECF system on this 8th day of May, 2019:

J. Christian Adams, Esquire
Public Interest Legal Foundation, Inc.
1555 King Street, Suite 200
Alexandria, VA 22314

Noah H. Johnson, Esquire
Public Interest Legal Foundation
32 E. Washington Street, Suite 1675
Indianapolis, IN 46204

Linda A. Kerns, Esquire
Law Offices of Linda A. Kerns, LLC
1420 Locust Street, Suite 200
Philadelphia, PA 19102

/s/ Daniel T. Brier